

ORDINANCE NO. 05- 277

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
ADDING CHAPTER 11.12 TO THE LOS ALTOS MUNICIPAL CODE PERTAINING
TO PERSONAL WIRELESS SERVICES AND FACILITIES**

The City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: Chapter 11.12 is hereby added to Title 11 of the Los Altos Municipal Code:

Chapter 11.12 PERSONAL WIRELESS SERVICES AND FACILITIES

Section 11.12.010 Purpose.

Section 11.12.020 Application.

Section 11.12.030 General criteria.

Section 11.12.040 General requirements.

Section 11.12.050 Design requirements.

Section 11.12.060 Use permit requirements.

Section 11.12.070 Operation and maintenance.

Section 11.12.080 Public property and public right-of-way.

Section 11.12.010 Purpose.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development, location, siting and installation of personal wireless services and facilities, and to balance the needs of wireless communication providers, the regulatory functions of the city, the rights guaranteed by the federal government, and the potential impacts upon the community and neighboring property owners in the design and siting of personal wireless services and facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the visual quality of the city as set forth within the goals, objectives and policies of the general plan, while at the same time providing for managed development of personal wireless services and facilities.

Section 11.12.020 Application.

The provisions of this chapter shall apply to all commercial personal wireless services and facilities as defined in the Federal Telecommunications Act.

Wireless communication services and facilities are exempt from these regulations if the facility is regulated by the California Public Utilities Commission, is specifically exempted by the Federal Communications Commission, is an amateur radio antenna facility, or is used solely for public safety purposes and is operated by an authorized public safety agency.

Section 11.12.030 General Criteria.

Personal wireless services and facilities are permitted on properties with office-administrative, commercial and public and community facilities zoning district designations. They are also permitted within the public right-of-way along the city's arterial and collector streets in any zoning district. The following general criteria shall apply:

- A. Building mounted antennas are encouraged, provided that the personal wireless service and facility are compatible with the building design and do not negatively impact the surrounding area. Building mounted antennas shall be designed to either be hidden from view or integral to the building's architecture.
- B. Distributed, repeater, or microcell antenna systems are encouraged along the city's arterial and collector streets.
- C. Monopole antennas are discouraged and are only permitted when screened from public view.
- D. Innovative design that camouflages, conceals, or disguises the facility shall be utilized. For example, facilities shall be designed to be compatible with surrounding architecture, or appear as a natural environmental feature, to mitigate the visual impact of the facility.

Section 11.12.040 General requirements.

In addition to the submittal requirements for a use permit, applications for personal wireless services and facilities shall include the following:

- A. A network design plan for all of the service provider's existing and planned sites in the City and surrounding jurisdictions. The network design plan shall indicate the location of existing and proposed facilities and the service area covered by each site.
- B. A qualified electrical engineer licensed by the state of California shall prepare an evaluation of the radio frequency (RF) field exposure conditions of the facility demonstrating that the radiation levels generated by the facility meet Federal standards and that interference to consumer electronic products is unlikely to occur. The evaluation shall include the following:
 - 1. The maximum exposure conditions directly adjacent to the antenna and at the closest point the public could come into contact with radiation, including upper floors of residential, institutional or commercial buildings.
 - 2. The maximum cumulative exposure conditions of all personal wireless services and facilities within the vicinity.
 - 3. Certification shall be provided by the electrical engineer prior to final inspection of the facility that the RF field exposure conditions are per the submitted evaluation.
- C. Visual representations sufficient to accurately show the appearance of the proposed facility, such as photomontages, mock-ups, and story poles. When feasible, scaled mock-ups shall be constructed on site.
- D. The City may require a co-location agreement binding the applicant and property owner to make the facility available in the future for the installation of additional communication equipment by other wireless communication providers.
- E. If the facility is abandoned in the future, the applicant shall be required to remove the wireless communication antennas and equipment from the site.
- F. Personal wireless services and facilities and all other equipment, such as emergency generators and air conditioners, shall be designed to be in compliance with the City noise ordinance.

Section 11.12.050 Design Requirements.

Based on potential visual impact, the order of preference for facility type is: 1) building mounted; 2) distributed, repeater, or microcell antenna systems; and 3) monopoles. If a monopole is proposed, the application shall include an explanation as to why other facility types are not being considered. Support equipment pads, cabinets, shelters and buildings require architectural, landscape, color, or other camouflage treatment for minimal visual impact.

The following specific design requirements shall apply to each type of personal wireless service and facility:

A. Building Mounted Antennas.

1. Notwithstanding building or antenna height limits identified in Title 14 of this code, building mounted personal wireless service (10) feet above the building surface on which they are located. An additional one foot of height may be added for every ten (10) feet the antenna is set back from the building parapet, to a maximum height of fifteen (15) feet above the surface on which it is located.
2. Building mounted antennas shall be architecturally integrated with the building design in such a manner as to be visually unobtrusive.
3. Building mounted antennas shall be painted to match the existing building.
4. Building mounted antenna equipment facilities shall be screened from public view.

B. Distributed, Repeater, or Microcell Antenna Systems.

1. Distributed, repeater, or microcell antenna systems mounted on buildings within the office-administrative, commercial or public and community facilities zoning district designations shall conform to the height limit of the zoning district within which the subject building is located.
2. Distributed, repeater, or microcell antenna systems mounted on utility poles or other utility structures within the public right-of-way in any zoning district shall be limited in height to the height of that particular structure.
3. Distributed, repeater, or microcell antenna systems shall be designed to minimize their visibility on utility poles or other structures.
4. Distributed, repeater, or microcell antenna systems' equipment facilities shall be screened from public view.

C. Monopole Antennas.

1. Monopoles shall be limited to the maximum height allowed for the zoning district it is located in.
2. Monopoles shall be considered only when the applicant demonstrates that the proposed facility cannot, or should not, be placed on an existing building, utility pole, or other structure.
3. Monopoles shall be located a minimum of one hundred and fifty (150) feet away from any residentially zoned property line or any public or private school property line.

4. Substantial landscaping or other screening shall be provided to screen any adjoining residential uses from the potential visual impacts of the monopole. Landscape screening shall be designed to achieve its desired appearance within a two-year period of time.
5. Monopoles shall be designed to minimize their visual impact to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage.
6. Monopole equipment facilities shall be screened from public view.

Section 11.12.060 Use Permit Requirements.

Personal wireless services and facilities shall require use permit approval, and shall be subject to the findings set forth in Chapter 14.80 for such applications. Applications for use permits shall require public hearings and shall be reviewed as follows:

A. Administrative Review

The city planner shall be the approving authority for all distributed, repeater, or microcell antenna systems and building mounted antennas that comply with applicable zoning regulations.

B. Planning Commission Review

The planning commission shall be the approving authority for all monopole antennas that comply with applicable zoning regulations.

C. Planning Commission and City Council Review

The planning commission and city council shall be the approving authority for all antennas that require a variance to the applicable zoning regulations.

D. Renewal Requirements

The city finds that the technology associated with personal wireless services and facilities is subject to rapid changes as a result of industry competition and customer demands, and anticipates that antennas and related equipment with reduced visual impacts shall be available from time to time with comparable or improved coverage and capacity capabilities. The city further finds that it is in the interest of the public health, safety and welfare that providers be required to replace older facilities with newer equipment of equal or greater capacity and reduced visual impacts as technological improvements become available.

Therefore, any permit issued pursuant to this chapter authorizing establishment of a personal wireless service or facility shall be renewed by the city planner once every five years. The purpose of the review is to determine whether or not newer equipment of equal or greater capacity is available that would reduce visual impacts; whether or not the facility complies with the then-current general and design standards; whether or not the facility is currently being used by the owner or operator; and whether or not the basic contact and site information supplied by the owner or operator is current. Renewal of the use permit would be based on the following findings:

1. That the facility complies with conditions of use permit approval.
2. That the facility is properly maintained.
3. That an evaluation has been provided by a qualified electrical engineer licensed by the state of California certifying that the RF radiation levels generated by the facility meet Federal standards, and that interference to consumer electronic products is unlikely to occur.
4. That the facility has been upgraded to utilize newer equipment of equal or greater capacity that would reduce visual impacts.

E. Appeals

1. Within fifteen days of any approval or denial of an administrative use permit, the decision may be appealed to the planning commission.
2. Within fifteen days of any approval or denial of a planning commission use permit, the decision may be appealed to the city council.

Section 11.12.070 Operation and maintenance.

All personal wireless services and facilities shall comply at all times with the following operation and maintenance standards:

- A. All facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment as soon as practicable, and in no instance more than forty-eight hours from the time of notification by the city.
- B. Each facility which contains trees, foliage or other landscaping elements, whether or not used as screening, shall be maintained in good condition at all times, and the owner or operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping as promptly as reasonably possible.
- C. Each facility for which a landscape plan was required and approved shall maintain the facility and site in accordance with the approved landscape plan at all times. Amendments or modifications to the plan shall be submitted for approval to the city planner.
- D. Each facility shall be operated in such a manner so as to minimize any possible disruption caused by noise. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of seven p.m. and seven a.m. on weekday nights.
- E. Each owner or operator of a facility shall routinely and regularly inspect each site to ensure compliance with the standards set forth in this section.

Section 11.12.080 Public property and public right-of-way.

- A. The city manager or the manager's designee may establish terms and conditions under which any public property or facility or public right-of-way may be made available as a location for a personal wireless service or facility.
- B. No personal wireless service or facility shall be constructed in or upon a public property or facility owned by the city, unless the communication provider seeking to operate the facility has obtained authorization from the city to occupy the property or facility. Authorization may include a lease agreement, an encroachment permit, or other agreement as determined by the city manager or the manager's designee.
- C. The provider shall indemnify and hold harmless the city and its officers and employees from any and all liability for damage proximately resulting from any operations of the provider under its lease or franchise.
- D. The provider shall pay to the city on demand the cost of all repairs to public property made necessary by or proximately resulting from any operations of the provider under its lease or franchise.

SECTION 2. AMENDMENT OF CODE: Section 14.80.050 of Chapter 14.80 of Title 11 of the Los Altos Municipal Code is hereby amended as follows:

14.80.050 Hearings--Procedures for Personal Wireless Services and Facilities.

- A. Notwithstanding the provisions of Section 14.80.040 of this chapter, hearings for personal wireless services and facilities shall be conducted in accordance with the provisions of this chapter, except as follows:

- 1. Administrative Review

- The city planner shall be the approving authority for all distributed, repeater, or microcell antenna systems and building mounted antennas that comply with applicable zoning regulations.

- 2. Planning Commission Review

- The planning commission shall be the approving authority for all monopole antennas that comply with applicable zoning regulations.

- 3. Planning Commission and City Council Review

- The planning commission and city council shall be the approving authority for all antennas that require a variance to the applicable zoning regulations.

SECTION 3. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 4. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 5. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

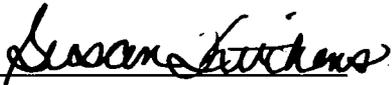
The foregoing ordinance was duly and regularly introduced at a meeting of the City Council of the City of Los Altos on March 22, 2005 and was thereafter, at a regular meeting held on April 12, 2005 passed and adopted by the following vote:

Ayes: COLE, MOSS, PACKARD, LEAR, CASAS
Noes: NONE
Absent: NONE



David Casas, MAYOR

Attest:



Susan Kitchens, CITY CLERK

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